

MT LEGISLATIVE HISTORY

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Chapter 571 19 85

Bill H 443 S _____

Original bill & hist. ____C

H. Committee on Judiciary

S. Committee on Judiciary

Hearing Date(s) 1-29 ____C

Hearing Date(s) 1-29 ____C

2-7 ____C

3-27 ____C

____C

____C

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____C

Date Out 2-7 ____C

____C

rpt. 2-7

Did this bill originate in an interim committee? ____Yes ____No

Committee _____

Report _____

HOUSE FINAL STATUS

4/15 SIGNED BY SPEAKER
 4/15 SIGNED BY PRESIDENT
 4/16 TRANSMITTED TO GOVERNOR
 4/18 SIGNED BY GOVERNOR
 CHAPTER NUMBER 544 EFFECTIVE DATE: 10/01/85

HB 442 INTRODUCED BY J. BROWN, BERGENE
 EXTEND PATERNITY STATUTE OF LIMITATIONS TO CHILD'S
 21ST YEAR
 BY REQUEST OF DEPARTMENT OF REVENUE

1/23 INTRODUCED
 1/23 REFERRED TO JUDICIARY
 1/29 HEARING
 2/16 COMMITTEE REPORT-BILL PASS AS AMENDED
 2/19 2ND READING PASS 78 15
 2/20 3RD READING PASS 80 20

TRANSMITTED TO SENATE
 2/22 REFERRED TO JUDICIARY
 3/27 HEARING
 3/28 COMMITTEE REPORT-BILL CONCURRED
 3/30 2ND READING CONCURRED 49 0
 4/01 3RD READING CONCURRED 47 0

RETURNED TO HOUSE
 4/08 SIGNED BY SPEAKER
 4/08 SIGNED BY PRESIDENT

4/08 TRANSMITTED TO GOVERNOR
 4/11 SIGNED BY GOVERNOR
 CHAPTER NUMBER 442 EFFECTIVE DATE: 10/01/85

HB 443 INTRODUCED BY J. BROWN, BERGENE, CHRISTIAENS
 INCOME WITHHOLDING FOR DELINQUENT CHILD SUPPORT
 PAYMENTS
 BY REQUEST OF DEPARTMENT OF REVENUE

1/23 INTRODUCED
 1/23 REFERRED TO JUDICIARY
 1/24 FISCAL NOTE REQUESTED
 1/29 HEARING
 1/29 FISCAL NOTE RECEIVED
 2/07 COMMITTEE REPORT-BILL PASS AS AMENDED
 2/09 REREFERRED TO JUDICIARY
 2/11 COMMITTEE REPORT-BILL DO PASS
 2/11 STATEMENT OF INTENT ATTACHED
 2/12 2ND READING PASS 95 3
 2/14 3RD READING PASS 96 1

TRANSMITTED TO SENATE
 2/15 REFERRED TO JUDICIARY
 3/27 HEARING
 3/28 COMM REPORT-BILL CONCURRED AS AMENDED
 3/30 2ND READING CONCURRED 32 12
 4/01 3RD READING CONCURRED 31 16

RETURNED TO HOUSE WITH AMENDMENTS
 4/05 2ND READING AMENDMENTS CONCURRED 80 12

HOUSE FINAL STATUS

4/08	3RD READING AMENDMENTS CONCURRED	92	5
4/15	SIGNED BY SPEAKER		
4/15	SIGNED BY PRESIDENT		
4/15	TRANSMITTED TO GOVERNOR		
4/19	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 571 EFFECTIVE DATE: 10/1/85		
	SECTIONS 21 AND 24 EFFECTIVE 4/19/85		
HB 444 INTRODUCED BY J. BROWN, BERGENE, CHRISTIAENS			
NOTICE OF INCOME WITHHOLDING PROCEDURE INCLUDED IN			
ALL CHILD SUPPORT ORDERS			
BY REQUEST OF DEPARTMENT OF REVENUE			
1/23	INTRODUCED		
1/23	REFERRED TO JUDICIARY		
1/30	HEARING		
2/08	COMMITTEE REPORT-BILL DO PASS		
2/12	2ND READING PASS	95	1
2/13	3RD READING PASS	98	2
	TRANSMITTED TO SENATE		
2/14	REFERRED TO JUDICIARY		
3/27	HEARING		
3/28	COMM REPORT-BILL CONCURRED AS AMENDED		
3/30	2ND READING CONCURRED	49	0
4/01	3RD READING CONCURRED	44	3
	RETURNED TO HOUSE WITH AMENDMENTS		
4/05	2ND READING AMENDMENTS NOT CONCURRED	92	2
4/09	CONFERENCE COMMITTEE APPOINTED		
4/19	CONFERENCE COMMITTEE REPORT		
	HOUSE		
4/20	2ND READING CONFERENCE COMMITTEE		
	REPORT ADOPTED	92	0
4/20	3RD READING CONFERENCE COMMITTEE		
	REPORT ADOPTED	97	0
	SENATE		
4/22	2ND READING CONFERENCE COMMITTEE		
	REPORT ADOPTED	49	0
4/22	3RD READING CONFERENCE COMMITTEE		
	REPORT ADOPTED	47	1
4/24	SIGNED BY SPEAKER		
4/24	SIGNED BY PRESIDENT		
4/25	TRANSMITTED TO GOVERNOR		
4/30	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 651 EFFECTIVE DATE: 10/01/85		
HB 445 INTRODUCED BY J. BROWN, CHRISTIAENS			
REQUIRING PERSON DELINQUENT IN CHILD SUPPORT			
PAYMENTS TO POST BOND			
BY REQUEST OF DEPARTMENT OF REVENUE			
1/23	INTRODUCED		
1/23	REFERRED TO JUDICIARY		
1/30	HEARING		
1/30	COMMITTEE REPORT-BILL PASS AS AMENDED		

(To pt current -- post bills when entering ng heard or leaving committee.)

CS-32

STATUS SHEET

FORTY-NINTH

LEGISLATIVE SESSION

COMMITTEE ON JUDICIARY

HOUSE BILL NO.	ENTERED COMM.	DATE CONSIDERED	OUT OF COMM.	DO PASS DATE	DO NOT PASS DATE	DO PASS AS AMEND. DATE	BE CON- CURRED IN DATE	BE CONC. IN AS AMENDED DATE	BE NOT CON- CURRED IN DATE	
HB 380	1/23/85	2/15/85 2/16/85	2/16/85	2/16/85						
HB 390	1/23/85	1/31/85	1/31/85	1/31/85						
HB 395	1/23/85	1/31/85 2/4/85	2/4/85			2/4/85				
HB 400	1/23/85	2/12/85 2/20/85	2/23/85		2/20/85	Re-referred back to Comm.			2-27	
HB 408	1/23/85	1/28/85	1/28/85	(WITHOUT RECOMMENDATION AND AS AMENDED)						
HB 413	1/23/85	2/6/85 2/8/85	2/8/85		2/8/85 AS AMEND.					
HB 425	1/23/85	1/28/85	1/28/85	1/28/85						
HB 426	1/23/85	1/28/85	1/28/85	1/28/85						
HB 438	1/23/85	1/28/85	1/29/85	1/29/85						
HB 439	1/23/85	1/29/85	1/29/85	1/29/85						
HB 440	1/23/85	2/7/85 1/29/85	2/7/85	2/7/85						
HB 441	1/23/85	1/29/85	1/29/85			1/29/85				
HB 442	1/23/85	2/16/85 1/29/85	2/16/85			2/16/85				
HB 443	1/23/85	2/7/85 1/29/85	2/7/85			2/7/85				
HB 444	1/23/85	1/30/85 2/8/85	2/8/85	2/8/85						
HB 445	1/23/85	1/30/85	1/30/85			1/30/85				

Rep. Krueger asked if Mr. McRae would be opposed to some provision that put some limitation in relation to the State of Montana and how long they could bring that action regardless of the age of the child.

Mr. McRae stated that under the new federal law, the statute of limitations must not be any earlier than when the child reaches the age of 18.

Rep. Krueger asked if Mr. McRae thought the legislature would have problems in light of the federal mandate if it put a limitation in relation to the state. Mr. McRae said he thought that would create a problem.

There being no further questions, hearing closed on HB 442.

CONSIDERATION OF HOUSE BILL 443: Rep. Jan Brown, chief sponsor of this bill, appeared and offered testimony. A copy of her testimony is attached and marked Exhibit M. She said that this bill would require, in child support cases being enforced by the Department of Revenue, the withholding of the obligor's income whenever an arrearage occurs that is equal to or in excess of the amount of support payable for one month.

John McRae also testified in support of this bill. He told the committee that this bill is lengthy and detailed. The intent of the bill and of the Child Support Enforcement Amendments of 1984, on which it is based, is to ensure that the support of children takes the highest priority in the allocation of a responsible parent's income withholding procedures whenever a delinquency occurs equal to at least one month's support payment. Mr. McRae pointed out some of the other features of the bill. He pointed out that there are many benefits directed toward the obligor.

There being no further proponents nor opponents, Rep. Brown closed and the floor was opened to questions from committee.

In response to a question from Rep. Keyser on the venue provision in the bill, Mr. McRae said that if a case is contested, the hearing officer makes the ultimate decision as to where the hearing will take place.

Rep. Keyser further asked if in the rest of the statute there is any language from the department that was not

required by the federal statute that increases or broadens the department's authority. Mr. McRae said that he had previously pointed out most of the portions of the bill that are not required by federal law.

In response to a question from Rep. Rapp-Svrcek, Mr. McRae stated that support payments are made through the clerk of court, or their department, or directly to the obligee. In response to another question, Mr. Shober stated that with regard to actual administrative costs, they do not have figures on the increased cost to the department that will be caused by this bill.

Rep. Rapp-Svrcek wanted to know the delay involved when payment comes through the department -- what kind of delay does the obligee have to deal with. Mr. Shober said it varies, but sometimes it can be substantial -- up to 4 to 5 weeks.

In response to a question by Rep. Gould, Mr. McRae informed the committee that medical bills and child support are different from each other, and the department does not collect medical costs.

Rep. Montayne feels this bill would place an unfair burden upon corporations. He feels that employees of large corporations are not going to tolerate this added burden. McRae said that he has received very little opposition to this bill from these large corporations.

Following further questions from the committee, the hearing on HB 443 was closed.

Mr. McRae did point out that the Governor's Commission which has just been appointed will study some of the problems that have been discussed here, such as visitation rights and other abuses that occur in these cases.

One problem seen by Rep. Krueger is the period of time that the parent must wait to receive a child support payment. Mr. Harrington said that three to five weeks is not the normal time it takes for an individual to receive these payments as referred to in earlier testimony.

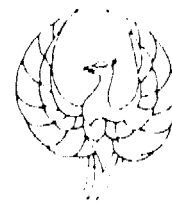
In response to another question, Mr. McRae said that each of these bills can stand on its own.

EXECUTIVE SESSION

ACTION ON HB 439: Rep. O'Hara moved that HB 439 DO PASS. The motion was seconded by Rep. Hammond. Rep. Addy pointed

WOMEN'S LOBBYIST FUND

Box 1099
Helena, MT 59624
449-7917



January 29, 1985

TESTIMONY IN SUPPORT OF HBs 438 - 444

Mr. Chairman and members of the House Judiciary Committee:

My name is Anne Brodsky and I am here today on behalf of the Women's Lobbyist Fund (WLF) to speak in support of House Bills 438-444. I am offering testimony to broadly endorse all of these bills as they are, as a package, a positive step in mitigating a big problem: the non-payment of child support orders (perhaps better said, child non-support). For many reasons, the problem of non-payment of child support orders is one which most often falls on women. This testimony addresses the problem in a general way.

The 1980 U.S. Census reported that less than one half of those known to have been owed child support in 1978 were actually receiving the full amount (averaging \$1800-\$2300 per year for 2 children); 23% received partial payment; and 28% received no payment at all. Here in Montana, the Department of Revenue now has a caseload of over 36,000 for child support enforcement services.

Rather than going away, the problem is increasing. It was predicted in an article by the National Conference of State Legislatures in July, 1983, that by the 1990s, less than 50% of children will spend their entire childhood with both parents and over 95% of the children with single parents will live with their mothers.

The problem of collecting child support obligations -- which becomes a societal problem, both economically and socially -- is based on many factors. I quote to you from an article entitled "Child Support? Forget It!" (Working Mother, Feb. 1983), in which one woman recounted her story as follows: "I've been to court so many times in the last five years that I've lost count. Each time I go back I lose at least half a day's work and usually a full day....Right now Steve hasn't paid me anything in two months... but I don't want to go to court again. I get so uptight each time that I can't sleep and my stomach's in knots....I wonder, should I just forget about child support and try to make it on my own? But as Luke grows older, my expenses grow too. You can't imagine the anxiety." This is the account of one woman. I have no doubt that her voice speaks for the many who are faced with the problem of enforcement of child support obligations.

HBs 438 - 444 are an encouraging step in addressing part of this very big problem. These bills take big steps in strengthening the state's mechanisms for enforcing these obligations.

For these reasons, the WLF urges you to pass HBs 438 - 444.

Mr. Chairman and Members of the Committee:

For the record, I am Jan Brown, House District 46.

House Bill 443 requires, in Child Support cases being enforced by the Dept. of Revenue, the withholding of the obligor's income whenever an arrearage occurs that is equal to or in excess of the amount of support payable for 1 month.

The new federal legislation requires all states to enact laws requiring procedures for wage withholding as a means of enforcing delinquent child support obligations. This bill pertains only to cases which are being enforced by the Dept. of Revenue. Under this bill, wage withholding will be triggered automatically whenever an arrearage accrues that is equal to the amount of support payable for one month. Withholding is to begin without amendment to the support order or further action by the court and is intended to apply to both existing and new child support obligations. Once put into effect, wage withholding will continue for so long as the Dept. of Revenue is enforcing the order or the support obligation terminates and all arrearages are paid in full.

To permit the automatic triggering of withholding procedures, it is necessary that the Dept. of Revenue monitor all support payments. This bill provides the authority for the Dept. to direct all payments to be made directly to the Dept., notwithstanding any prior order or agreement.

The bill gives the Dept. of Revenue rule-making authority to implement necessary procedures and forms, and I have a Statement of Intent.

I have further proponents and staff persons present to further explain this bill and to answer questions.

MINUTES FOR THE MEETING
JUDICIARY COMMITTEE
MONTANA STATE
HOUSE OF REPRESENTATIVES

February 7, 1985

An executive session of the Judiciary Committee was called to order by Chairman Tom Hannah on Thursday, February 7, 1985 at 7:00 a.m. in Room 312-3 of the State Capitol Building.

ROLL CALL: All members were present with the exception of Rep. O'Hara.

ACTION ON HOUSE BILL NO. 609: Rep. Keyser moved that HB 609 DO PASS. The motion was seconded by Rep. Mercer and passed with Reps. Darko and Bergene dissenting. There was no further discussion on the bill.

ACTION ON HOUSE BILL NO. 440: Rep. Addy moved that HB 440 DO PASS. The motion was seconded by Rep. Mercer and passed unanimously.

ACTION ON HOUSE BILL NO. 443: Rep. Gould moved that HB 443 DO PASS. The motion was seconded by Rep. Hammond. Rep. Gould stated his full support for the bill.

Rep. Kruegar moved to amend the bill as follows:

1. Title, line 9.

Following: "MONTH;"

Insert: "REQUIRING THE DEPARTMENT TO FORWARD ANY CHILD SUPPORT PAYMENTS TO THE OBLIGEE WITHIN 10 DAYS OF RECEIPT OF THE PAYMENT FROM THE OBLIGOR;"

2. Page 5, following line 8.

Insert: "(3) Whenever an obligation for support is paid through the support enforcement and collections unit of the department, the department must forward payment to the obligee within 10 days of the department's receipt of payment from the obligor."

Rep. Krueger addressed his amendment saying although the bill has a great deal of merit, he feels the larger bureaucracy gets, the more cumbersome it gets. He desires to see the child support money distributed to the child's mother as quickly as possible.

This motion was seconded by Rep. Brown.

Rep. Keyser stated his dislike for the broad language in the bill.

Rep. Addy said that he is confused with the intent of the bill which allows the Department of Revenue to be

reimbursed for payments made to the mother.

Rep. Eudaily asked what happens if the department does not send the support to the mother within 10 days which would be required under Rep. Krueger's amendment. Rep. Krueger responded by saying he doesn't know what would happen. He said penalties are not set forth in the provision; however, he feels there should be a mandatory time limit set.

The question was called on the motion to adopt Rep. Krueger's prior amendment. The motion passed unanimously.

Rep. Gould moved that HB 443 DO PASS AS AMENDED. The motion was seconded by Rep. Brown and discussed.

Rep. Keyser moved to amend beginning on page 2, line 1 by inserting after "earnings" the language "compensation for personal services" and by striking the words on line 2 beginning with "interest" through "source" on line 5. The motion was seconded by Rep. Hannah and discussed. Rep. Keyser commented that he feels the language he moved to delete is too broad.

The question was called, and a roll call vote was taken on this motion. The motion failed 7-9.

Rep. Rapp-Svrcek moved to amend HB 443 beginning on page 9, line 1 by striking "can" and adding an "s" to "show". Furthermore, as a part of that motion on line 4 of page 9, strike "may in its discretion" and insert "shall". The motion was seconded by Rep. Bergene. It was Rep. Rapp-Svrcek's opinion that this would provide adequate protection.

The question was called, and the motion failed.

Rep. Keyser further moved to amend page 2, line 18 by inserting after "income" the language "or wages". He further moved to amend on page 2, line 18 following "basis" all the language beginning with "and" through "thereof," on line 21. The motion was seconded by Rep. Gould, and discussion followed. Rep. Keyser explained his reasoning behind this motion to amend in that he feels the language is broader than the federal form. He said this language was added by the department and does not conform with the federal statute requirements.

Rep. Miles opposed the motion and feels the language should be left in. She said that wages is included in the division of income.

There being no further discussion, the question was called, and the motion failed.

Rep. Miles moved to amend on page 11, lines 9 and 10 following "wages" by striking "or income". The motion was seconded by Rep. Mercer.

Rep. Hannah was concerned that by adopting this amendment, it would not make it consistent with the intent of the bill.

Rep. Krueger said that by adopting this amendment, we are recognizing that child obligation should be put on the same level as secured creditors. Rep. Krueger, however, doesn't feel that child obligation should receive priority above the rest.

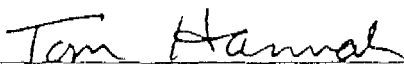
Following further discussion, a roll call vote was taken. The motion carried 9-7.

Rep. Bergene moved that HB 443 DO PASS AS AMENDED. The motion was seconded by Rep. Addy and further discussed.

Rep. Montayne informed the committee that he had contacted two social workers concerning this bill who in turn told Rep. Montayne that they were afraid of the bill. They told Rep. Montayne that they may face a mass exodus of husbands if this bill is passed.

The question was called, and the motion passed with Reps. Hannah, Keyser and Gould dissenting.

Chairman Hannah adjourned executive session at 8:00 a.m..



REP. TOM HANNAH, Chairman

STANDING COMMITTEE REPORT

February 7

1935

MR. SPEAKER:

We, your committee on JUDICIARY

having had under consideration HOUSE Bill No. 443

FIRST reading copy (WHITE
color)

INCOME WITHHOLDING FOR DELINQUENT CHILD SUPPORT PAYMENTS

Respectfully report as follows: That HOUSE Bill No. 443

be amended as follows:

1. Title, line 3.

Following: "MONTH;"

Insert: "REQUIRING THE DEPARTMENT TO FORWARD ANY CHILD SUPPORT PAYMENTS TO THE OBLIGEE WITHIN 10 DAYS OF RECEIPT OF THE PAYMENT FROM THE OBLIGOR;"

2. Page 5, following line 8.

Insert: "(3) Whenever an obligation for support is paid through the support enforcement and collections unit of the department, the department must forward payment to the obligee within 10 days of the department's receipt of payment from the obligor."

3. Page 11, lines 9 and 10.

Strike: "or income"

XXXXXX
DO PASS

AND AS AMENDED,
DO PASS

CHAIRMAN--MAZUREK, JOE

NORMAL SCHEDULE==> SITE: OLD SUPREME COURT ROOM DAYS: M-TU-W-TH-F

TIME: 10:00 A.M.-12 NOON

SECRETARY-STALEY, CINDY

--BILL NO--	REFER DATE	HEARING DATE	CONSIDERATION DATES	COMMITTEE ACTION	REREFERRED TO COMM	DATE OUT
HB0441	2/07	3/27	3/28	CONCUR AS AMENDED		3/28
BROWN, JAN			ENFORCEMENT OF ADMINISTRATIVE CHILD SUPPORT ORDERS THROUGH DISTRICT COURT			
HB0442	2/22	3/27	3/28	CONCUR		3/28
BROWN, JAN			EXTEND PATERNITY STATUTE OF LIMITATIONS TO CHILD'S 21ST YEAR			
HB0443	2/15	3/27	3/28, 3/28	CONCUR AS AMENDED		3/28
BROWN, JAN			INCOME WITHHOLDING FOR DELINQUENT CHILD SUPPORT PAYMENTS			
HB0444	2/14	3/27	3/28	CONCUR AS AMENDED		3/28
BROWN, JAN			NOTICE OF INCOME WITHHOLDING PROCEDURE INCLUDED IN ALL CHILD SUPPORT ORDERS			
HB0445	2/07	3/27	3/28	CONCUR AS AMENDED		3/28
BROWN, JAN			REQUIRING PERSON DELINQUENT IN CHILD SUPPORT PAYMENTS TO POST BOND			
HB0446	2/11	3/27	3/28	ADVERSE REPORT		3/28
BROWN, JAN			LIENS AGAINST REAL AND PERSONAL PROPERTY FOR UNPAID CHILD SUPPORT			
HB0447	2/25	3/27	3/28	ADVERSE REPORT		3/28
BROWN, JAN			GARNISH WORKERS' COMPENSATION BENEFITS FOR CHILD SUPPORT DEBTS			
HB0476	2/07	3/12		CONCUR		3/21
SPAETH, GARY			GIVING JUSTICES' CRTS. JURISDICTION WITH DIST. CRTS. IN MISDEMEANORS			
HB0481	2/21	3/20		ADVERSE REPORT		3/20
BRANDEWIE, RAY			MENTIONING SENTENCE TO JURORS; NO CHALLENGE FOR BELIEF ITS TOO SEVERE			
HB0507	3/05	3/14		ADVERSE REPORT		3/21
KEYSER, KERRY R.			REVISE LAWS RE: DISCRIMINATION IN INSURANCE			
HB0517	2/19	3/19		CONCUR AS AMENDED		3/23
HANSEN, STELLA JEAN			DISTRICT COURT CLERK MAY CHARGE \$5 CHILD SUPPORT HANDLING FEE			

MONTANA STATE SENATE
JUDICIARY COMMITTEE
MINUTES OF THE MEETING

March 27, 1985

The sixtieth meeting of the Senate Judiciary Committee was called to order at 10:10 a.m. on March 27, 1985, by Chairman Joe Mazurek in Room 325 of the Capitol Building.

ROLL CALL: All committee members were present with the exception of Senator Crippen.

CONSIDERATION OF HB's 438, 439, 440, 441, 442, 443, 444, 445, 446, and 447: Chairman Mazurek stated the hearing on these House Bills would be held simultaneously since the bills were similar and on the same topic. Representative Jan Brown, the sponsor of these bills, presented them to the committee in numerical order. She stated that these bills were put together as a package dictated by the federal government. These ten bills are the implementation bills for the federal Child Support Enforcement Amendment of 1984, Public Law 93-378. Federal law requires that each state have a child support program, commonly called the 4-D Agency after Title 4D of the Social Security Act. Montana's program is located within the Legal and Enforcement Division of the Department of Revenue. This agency is responsible for locating absent parents, establishing paternity, child support obligations, and collecting and monitoring child support programs. Representative Brown stated John McRae would answer any questions the committee might have. HB 438 is to offset child support debts against state income tax refunds. HB 439 is the consumer credit reporting agencies' access to child support debt information. HB 440 relates to enforcement of spousal support by the Department of Revenue. HB 441 is the enforcement of administrative child support orders through district court. HB 442 extends the paternity statute of limitations to a child's 21st year. HB 443 is the bill requiring low income withholding for delinquent child support payments. HB 444 is the notice of income withholding procedure included in all child support orders. HB 445 requires persons delinquent in child support payments to post bond. HB 446 puts liens against real and personal property for unpaid child support. HB 447 would garnish workers' compensation benefits for child support debts.

PROPOSERS: Anne Brodsky, Women's Lobbyist Fund, stated that they support all of these bills which mainly affect women. She testified that in 1980 the U.S. Census reported less than half of the people owed child support were collecting the full amount, 23 percent were receiving partial payment and 28 percent received no payment at all. There is a problem now regarding payment of child support; therefore, she stated they urged the committee to support these bills.

OPPONENTS: John Hollow, Attorney, Helena, Montana, spoke in opposition to HB 440. He cited an example of a male spouse owing a female spouse \$3,600, the woman goes on welfare, and welfare expends \$300 on this woman. When SRS collects the \$3,600, who gets the money? He also questioned what happens if a person goes on AFDC at the time of dissolution and SRS pays the \$300, but the male spouse is unemployable or injured or under employed. How can he be held responsible to reimburse this money? He feels there should be a requirement that the Department recognize there is sometimes an inability to pay. He does not feel this bill recognizes people can be down and out. He suggests there should be a language change on page 5, subsection 8, line 20, that the amount should not be any more than the man can feasibly pay. He also suggested the debt only accrue while the Department is paying assistance.

Larry Majerus, Motor Vehicle Division, Department of Justice, stated his only opposition is to HB 446, which relates to liens on motor vehicles. He stated that because of the language on line 23 of the first page which states "state agency in possession of real or personal property," they were exempted because they were not in possession of the real property, and they never possess the vehicle, so they could not transfer the title, but that language is no longer in there. Mr. McRae suggested they add the words "physical possession" to make it clearer. He stated that if they are forced to file a lien in their office, it is not on the title, and they can run into a lot of problems. The most common problem is when a vehicle is sold to a dealer, the dealer is exempt from titling and could keep the car on the lot for an average of four months. When they sell it and the buyer makes application for title, the title will then get to their office and that is when they catch there is a lien against it. This creates problems for everyone. This compounds the problem if they have to do it. He also stated that if a lien is missed by a state agency when there is a transfer of personal property, there would be a penalty to the state agency involved. He stated he felt if the bill could be cleaned up so it does not affect the way liens are placed on motor vehicles, they would have no objection to the bill.

QUESTIONS FROM THE COMMITTEE: Chairman Mazurek stated questions would be asked on each bill separately in numerical order.

Questions on HB 438: Senator Daniels asked what happens when the tax return is made out to the owing spouse and his present mate. Mr. McRae stated the injured spouse must file an amended return showing what her share is to obtain her share of the tax refund. Senator Towe asked what this procedure would give

Questions on HB 442: Senator Mazurek asked if Title 4D of the Social Security Act is AFDC. Mr. McRae replied it is the welfare cases plus those others who are not on welfare that apply; thus, it broadens the scope.

Questions on HB 443: Senator Towe stated at the present time we do not have a withholding provision, but there is a federal law that mandates we include it. Mr. McRae replied that in Montana, as Representative Brown referenced, they do have a withholding type bill as stipulated in Title 4D, chapter 5, subpart 2. That particular act does not meet the federal standards. By adopting HB 442, we can conform with federal requirements.

Senator Towe asked if there were a hearing procedure if this procedure does not go into effect until the obligor were one month in arrears. Mr. McRae stated there is a hearing procedure and notice procedure throughout the whole bill. Senator Towe then asked if the hearing procedure is terminated when the obligor pays. Mr. McRae replied the procedure continues, the reason being to make sure the obligor is more prompt in the future.

Senator Towe asked about discretion. Mr. McRae answered the only area of discretion is found on page 9, line 8. Senator Mazurek asked what the source of the bill was. Mr. McRae stated no model was available, so they tried to adopt procedures from available bills and use their discretion as to which was best.

Senator Towe asked if federal law required withholding of just wages or if it included a broader spectrum. Mr. McRae answered federal law only requires withholding of wages and earnings; however, the state has elected to use a broader definition and include interest income, annuities, etc. Senator Towe asked how Representative Brown felt about striking everything but wages. Representative Brown replied she would prefer it were left as is but would not object if the committee did decide to strike the other types of earnings. Senator Towe then asked that would happen if the employer failed to comply with the order. Mr. McRae stated the employer would then be held liable, because it is required by federal act that they do comply. Senator Towe asked if this withholding had priority over all other types of withholding. Mr. McRae replied in reality, it had priority over everything except federal income tax.